

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA

V.

JOHN RAYNE RIVELLO

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NO. 3-17MJ192-BK

**AMENDED AGREED MOTION TO EXTEND DEADLINE
FOR THE FILING OF AN INDICTMENT**

TO THE HONORABLE UNITED STATES MAGISTRATE JUDGE:

John Rayne Rivello, Defendant, moves this Court to extend the deadline for filing an indictment in connection with the pending charges until September 1, 2017. By agreement, this continuance will allow the Department of Justice in Washington to review whether an indictment is consistent with the Department's "Petite Policy," as follows:

On March 20, the State of Texas indicted Mr. Rivello with "assault" for sending a tweet and "GIF" that allegedly caused Kurt Eichenwald to have an epileptic seizure. The United States is now contemplating indicting Mr. Rivello for "cyberstalking" for the same tweet and GIF.

DOJ Guidelines address when to bring a "federal prosecution ... based on substantially the same acts [as a] state prosecution," See U.S.A.M. 9-2.031. This so-called "Petite Policy" is separate from "double jeopardy." It provides that (in certain circumstances) the Department should not indict on substantially similar acts as the state unless "substantial federal interests" are left unvindicated by the state case and the Assistant Attorney General approves. *Id.* We have asked the Department of Justice in Washington to review those circumstances here, and that review is underway. The United States has agreed to this motion to allow that review to proceed within the Department.

Mr. Rivello was arrested on March 17, 2017 by “complaint” that otherwise would require indictment within 30 days. 18 U.S.C. section 3161(h). By prior agreed motion – in which Mr. Rivello waived his right to have an indictment filed within thirty days of arrest – this Court extended the indictment date to July 14. Mr. Rivello now moves by agreement to extend the date to September 1, 2017. A continuance of the time to indict would serve the ends of justice and would outweigh the interests of the public and the Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

The parties have conferred and agreed to extend the deadline for filing an indictment until September 1, 2017.

Respectfully submitted,

/s/ David Gerger

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CERTIFICATE OF CONFERENCE

On July 5, 2017, I conferred with Assistant United States Attorney Candina Heath via email regarding extending the deadline for filing an indictment, who agrees to this request.

/s/ David Gerger

David Gerger

CERTIFICATE OF SERVICE

A copy of this pleading was served on the day of filing through the Court's CM/ECF filing system.

/s/ David Gerger